

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	8:08CR238
	)	
v.	)	
	)	
RAFAEL POSADAS,	)	ORDER
	)	
Defendant.	)	
_____	)	

This matter is before the court on its own motion. The defendant has filed a motion to suppress evidence obtained pursuant to a search warrant authorizing a buccal swab for DNA, Filing No. [55](#). This matter is set for trial on March 2, 2009. The court finds expedited consideration of the motion is warranted. The court does not anticipate that an evidentiary hearing will be necessary, and unless good cause is shown, the court will rely on the application, affidavit, and warrant, and any other documentary evidence submitted to the court, in ruling on the motion. Accordingly,

IT IS HEREBY ORDERED:

1. The government shall respond to the defendant's motion (Filing No. [55](#)) and file any affidavits or evidence in support of its position, on or before February 18, 2009.
2. The defendant shall file a reply, as well as submit any evidence in response thereto, on or before February 23, 2009.
3. Any motion for an evidentiary hearing must be supported by a brief stating the reasons that the presentation of live testimony is necessary and must be filed within 5 calendar days of the date of this order.

DATED this 13<sup>th</sup> day of February, 2009.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge